

AMENDED IN ASSEMBLY APRIL 6, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 1360

Introduced by Assembly Member Hancock

February 22, 2005

An act to add Section 25355.1 to the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1360, as amended, Hancock. Institutional control sites.

Under existing law, the Site Designation Committee in the California Environmental Protection Agency is authorized to designate an administering agency for oversight of a remedial action to a hazardous substance release. Existing law requires the administering agency to supervise the site investigation and remedial action conducted by the responsible party and, upon determining that the site investigation and remedial action has been satisfactorily completed, to issue a certificate of completion to the responsible party.

The Carpenter-Presley-Tanner Hazardous Substance Account Act, imposes liability for hazardous substance removal or remedial actions and requires the Department of Toxic Substances Control to adopt, by regulation, criteria for the selection and for the priority ranking of hazardous substance release sites for removal or remedial action under the act.

This bill would define the term ~~“institutional control site”~~ *“public health priority site”* as a hazardous substance release site that is proposed to be used for certain residential, school, or other specified uses and *as to which, after cleanup or other removal or remediation, would pose risks to human health that would be unacceptable to the department for the proposed uses but for ongoing engineering or land*

~~use controls.~~ *the department determines that a hazardous substance release on a site presents a potential human health risk to future residents or workers on the site or on adjacent sites under criteria, as specified.*

The bill would require the cleanup and approval of future land uses for a site that meets those conditions to be governed by the Presley-Carpenter-Tanner Hazardous Substances Account Act and would require the site to be regulated by the department. The bill would allow any agency or member of the public to request the department to determine whether a hazardous substance release site is ~~an institutional control site~~ *a public health priority site.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The appropriate cleanup and redevelopment of brownfields
- 4 and other contaminated properties is vital to the protection of
- 5 human health and safety and the environment and to the
- 6 revitalization of our urban communities.
- 7 (b) Brownfield sites vary in technical complexity and a
- 8 complex site may present risks to human health from different
- 9 exposure pathways, including air, and may require enforcement
- 10 of long-term institutional controls, including, operations,
- 11 maintenance, monitoring, and restrictions on use.
- 12 (c) These complex brownfield sites need to be administered by
- 13 personnel with the necessary expertise to evaluate these risks and
- 14 enforce these controls. If a site is to be converted to residential
- 15 use, potential health risks and the need for effective institutional
- 16 controls are even more important.
- 17 (d) Brownfield sites also vary in controversy in the
- 18 community. Complex brownfield sites are usually more
- 19 controversial and require more interaction with the community
- 20 prior to approval of remedial action activities.
- 21 (e) It is the intent of the Legislature to assure that these
- 22 complex sites are regulated in a manner that assures the
- 23 availability of appropriate agency expertise and necessary
- 24 processes for approval of cleanup and future land uses.

SEC. 2. Section 25355.1 is added to the Health and Safety Code, to read:

25355.1. (a) ~~“Institutional control site”~~ *“Public health priority site”* means a hazardous substance release site subject to this section that meets both of the following criteria:

(1) The site is proposed to be used for any of the uses set forth in paragraph (1) of subdivision (b) of Section 25232.

~~(2) (A) After cleanup or other removal or remediation, the site would pose risks to human health that would be unacceptable to the department for the proposed uses but for ongoing engineering or land use controls.~~

(2) (A) The department determines that a hazardous substance release on the site presents a potential human health risk to future residents or workers on the site or on adjacent sites.

(B) A site that would require ongoing engineering or land use controls after cleanup or other removal or remediation is deemed to be a site that presents a potential human health risk to future residents or workers on the site or on adjacent sites. For purposes of this paragraph, a control solely to address groundwater contamination that is not related to the health of future occupants of the site is not a land use control.

~~(b) (1) Notwithstanding any other provision of law, if the contamination at a site that meets the conditions specified in paragraphs (1) and (2) of subdivision (a) is caused by a release of a hazardous substance that is not otherwise excluded or exempted from this chapter, the site is an institutional control site for purposes of this section.~~

~~(2) The cleanup and approval of future land uses for an institutional control site shall be exclusively governed by this chapter and the department shall regulate the cleanup and future uses of that site.~~

~~(c) This section does not require an institutional control site be listed pursuant to Section 25356.~~

(b) A person who is proposing any of the uses set forth in paragraph (1) of subdivision (b) of Section 25232 and who knows of a past or present hazardous substance release on the site shall promptly notify the department so that the department can make the determination set forth in paragraph (2) of subdivision (a).

- 1 (c) *Notwithstanding any other provision of law, the cleanup*
2 *and restriction of future land use for a public health priority site*
3 *shall be exclusively governed by this chapter, and the department*
4 *shall regulate the cleanup and restrict the future uses of the site.*
5 *In determining the appropriate cleanup for the site, the*
6 *department shall consult with the local regional water quality*
7 *control board regarding the protection of water quality. Nothing*
8 *in this section authorizes the department to grant local land use*
9 *entitlements.*
- 10 (d) *This section does not require that a public health priority*
11 *site be listed pursuant to Section 25356.*
- 12 (e) Any agency or member of the public may request the
13 department to determine whether a hazardous substance release
14 site is ~~an institutional control~~ a public health priority site.